Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Auction of 218-219 MHz Service and	)	AU Docket No. 10-107
Phase II 220 MHz Service Licenses	)	
Scheduled for December 7, 2010	)	
	)	
Comment Sought on Competitive Bidding	)	
Procedures for Auction 89	)	

To: The Commission

COMMENTS OF SPECTRUM BRIDGE, INC.

Spectrum Bridge, Inc. ("SBI") hereby submits its Comments in the above-captioned proceeding seeking public input on competitive bidding rules for Auction 89.[1] The *Public Notice* announces the Commission's intent to auction 1,868 licenses, including the re-auction of 564 218-219 MHz Service licenses in certain metropolitan Cellular Service Areas ("CMAs"), the auction of 856 218-219 MHz Service licenses in rural CMAs and the re-auction of 448 220 MHz Service Phase II licenses.

Rather than auctioning the licenses, the Commission instead should list the licenses on an online public exchange to promote access to unused and underutilized spectrum, consistent with National Broadband Plan recommendations.[2] The spectrum designated for Auction 89 is especially well-suited for a public exchange auction in light of the Commission's unsuccessful prior auctions in the subject services and SBI's experience in dynamically combining spectrum licenses in response to changes in the needs of licensees to create demand and increase efficient use of unused or underutilized spectrum. A market-based exchange also would be consistent

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[1] *Public Notice*, "Auction of 218-219 MHz Service and Phase II 220 MHz Service Licenses Scheduled for December 7, 2010; Comment Sought on Competitive Bidding Procedures for Auction 89," DA 10-849, rel. May 24, 2010 ("*Public Notice*").

[2] "Connecting America: The National Broadband Plan," March 16, 2010, at 83.

with the National Broadband Plan recommendation that the Commission "address barriers to more productive allocation and use of spectrum through secondary markets."[3]

Background

SBI was founded in 2007 and operates an online spectrum exchange (www.specex.com) focused on expanding the secondary market for spectrum and new wireless technologies. The spectrum exchange enables licensees, purchasers and lessees to sell, buy, lease, partition and disaggregate spectrum in a transparent, efficient, market-driven environment. Unlike Commission auctions, licenses are listed when the licensee desires to sell, lease, partition or disaggregate spectrum, not at an arbitrary date set by Congress or the Commission. Moreover, SBI can help create value in spectrum – and the deployment of it – by associating licenses in different services, putting pieces of different licenses together, time-sharing and other creative spectrum combination and disassociation methods that correspond more precisely to geographic and spectrum usage objectives.

With specific regard to 218-219 MHz and 220 MHz services, SBI has developed a market for the relatively few remaining incumbent licensees, enabling the exchange of a number of licenses since 2008. In servicing this market, SBI has analyzed the history, current market viability and the utility of these bands, as well as the AMTS band at 217/219 MHz and narrowband 220-222 MHz spectrum, and has successfully combined contiguous spectrum to create a larger pipe that increases value and utility of each component license. Furthermore, SBI has been in constant communication with various industry segments and stakeholders that are active participants in using this spectrum but are not skilled in the art of the Commission's competitive bidding rules and procedures. From its experiences and knowledge, SBI has gained a unique perspective of the benefits of an online spectrum exchange and believes the time is right

[3] *Id.*

for the Commission to consider offering the subject licenses for sale via a spectrum exchange to create the best value for users of this spectrum and the taxpayers. Alternatively, if the Commission elects to proceed with Auction 89, SBI recommends that the Commission raise the minimum bid amount and, following the auction, place any unsold licenses on an exchange for public sale.

Discussion

The Commission has not yet permitted the use of a public exchange to allocate spectrum. However, by adopting SBI's proposals, the Commission can use this proceeding as a valuable test bed for the sale of licenses to help determine whether future spectrum allocations can and should be migrated to an exchange model. Simply stated, there is little or no risk to the Commission or the U.S. Treasury in using these particular licenses as a testing vehicle for spectrum allocations, especially given that some of the subject licenses have already been auctioned and wound up back in the Commission's hands .

The constraints of the existing auction processes create regulatory barriers that prevent license combinations, limit auction participation, require bidders to acquire more area than they may desire and, in general, reduce spectrum value. As the Commission stated in the National Broadband Plan:

> The goal of the FCC's current secondary market policies is to eliminate regulatory barriers that might hinder access to, and permit more efficient use of, valuable spectrum resources. The FCC has expressed concern that existing licensees may not fully utilize or plan to utilize the entire spectrum assigned to them; as a result, a substantial amount of spectrum may be underused, especially in rural areas.[4]

To address this concern, the National Broadband Plan recommended that the Commission "should evaluate the effectiveness of its secondary markets policies and rules to promote access

[4] *Id.* (footnotes omitted).

to unused and underutilized spectrum."[5] In remarks he made just last week, Chairman Julius Genachowski emphasized that "[w]e've got to work on spectrum policies that generate greater efficiency. For example, creating new and better markets for secondary markets in spectrum. . . . Literally trading spectrum."[6]

As the operator of an active online spectrum exchange for the last three years, SBI has determined that a spectrum exchange promotes the Commission's secondary market policies and spectrum usage, and offers a number of other public interest benefits that the Commission's spectrum auctions do not and cannot provide. First, public exchanges can better ensure that spectrum is put to use. The Commission originally auctioned 612 218-219 MHz licenses (then called IVDS) in 1994. Forty-eight of these licenses are currently in "active" status, meaning that 564 licenses expired or terminated according to Commission records. For 18 years, no license holder has developed a market or created a meaningful business opportunity with the spectrum and it remains largely unused. To develop a market and stimulate spectrum usage, SBI introduced remaining spectrum licensees to equipment manufacturers and network operators via its exchange. SBI also is able to combine licenses in the 218-219 MHz band with licenses in adjacent bands to create a larger pipe for uses such as Positive Track Control, a technology developed by railroads that is being deployed along railroad routes across the country, and Smart Grids. By contrast, the Commission's auctions do not encourage these opportunities because the Commission auctions spectrum when Congress tells it to or when it sees fit to reduce spectrum inventory or raise revenues. Conducting auctions in these circumstances does not allow the full

[5] *Id.*
[6] *See* "The Regulatory Challenge," *The Wall Street Journal*, June 7, 2010, http://online.wsj.com/article/SB10001424052748704183204575288363378490860.html?mod=rss_Technology (last visited June 11, 2010).

value of the spectrum to be realized, discourages bids and usage and does not correspond to marketplace realities or technological innovation.

Second, by offering spectrum on a public exchange, the Commission would encourage greater participation by smaller companies. Under the Commission's auction procedures, large companies skilled in the art of auctions enjoy an advantage over smaller companies, and recent auction results show that larger carriers continue to increase their spectrum holdings. In many cases, large companies focus on serving high-density urban and suburban areas, and do not intend to serve the surrounding rural areas within the licensed market. An online exchange can combine or divide geographic areas in ways that better correspond to market realities and that will encourage interest by companies experienced in serving rural markets but not skilled in the Commission's auction processes.

However, the most important benefit for small companies stemming from a spectrum exchange format is that the spectrum being sold can be partitioned or disaggregated on a dynamic basis in response to inquiries from potential buyers, including small entities that do not want to lease or purchase an entire license. By contrast, with an auction, the size of each license to be sold is set in stone, at least until after the auction is over and the spectrum is awarded to the high bidder. Thus, for example, if an EA license that already failed to sell at auction is listed on the exchange, a small company needing only the eastern half of that EA can make an offer on just the portion it needs, and the exchange operator can, in the absence of other bids, partition off the needed portion and sell it separately to the buyer, rather than leaving the entire EA spectrum fallow and unsold.

Third, an exchange also creates much needed competition which the Commission has consistently advocated for in public statements. Placing the spectrum on an easy to use public

exchange for a period of time allows more accessibility to a wider range of potential buyers, thereby generating more competition. This competition has the added benefit that whoever obtains the license has a financial incentive to put the spectrum to use as quickly as possible.

Fourth, offering the subject licenses on an exchange will provide valuable insight into ways the Commission's secondary market policies can be advanced. The Commission observed in the National Broadband Plan that "[t]o ensure that secondary markets are functioning effectively, the FCC should identify and address barriers to more productive allocation and use of spectrum through secondary markets."[7] One way that the Commission can begin to achieve these objectives is by listing the licenses on a spectrum exchange as a test bed. The 218-219 MHz and 220 MHz bands are perfectly suited for this because the Commission already has auctioned some of the spectrum, there has been a market and technology failure and the expected winning bid amounts is low relative to recent multi-billion dollar auctions. If the model proves successful, then the Commission can determine whether future license allocations should be moved to competitive exchanges.

If the Commission is not prepared at this time to migrate to an exchange model for allocating spectrum, SBI suggests that the Commission should raise the minimum bid price for Auction 89 licenses to the current market value. By adjusting the minimum bid price to current market values, the Commission, as the taxpayers' representative, will see an increase in revenue of up to $60 million.[8] Raising the minimum price will also dissuade parties from warehousing.

In addition to raising the minimum price, the Commission should place all remaining unsold licenses on a secondary market exchange. The unsold licenses should not be returned to the Commission's inventory to await another auction, which could result in the spectrum laying

[7] *Id.*
[8] *See* Exhibit 1 for an analysis of current market data.

fallow for many years, as is the case with the 218-219 MHz Service MSA licenses subject to Auction 89. By placing unsold licenses on the secondary market, the Commission would give potential spectrum users the opportunity to purchase them after the auction is closed based on then-existing market circumstances or changes in technology. For any company that may not have all its communications needs defined prior to the auction, this method of spectrum acquisition allows them the opportunity to get the spectrum they need without waiting years for another auction. This also creates the opportunity for the FCC to generate more revenue and put more spectrum to use.

Conclusion

Replacing Auction 89 with a listing of the spectrum on an online public exchange will serve as a model for how the Commission can best fulfill the needs of individual spectrum users, increase the efficient use of spectrum, provide momentum to the secondary market initiative, and receive fair market value for this national asset.

Respectfully submitted,

SPECTRUM BRIDGE, INC.

June 15, 2010

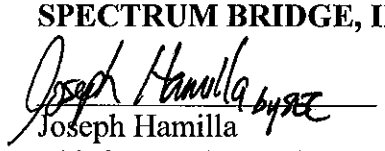
By: 

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Exhibit 1

Spectrum Bridge Background

Spectrum Bridge ("Spectrum Bridge", "SBI") was established in 2007 with the goal of identifying and implementing automated methods to facilitate access to spectrum for service providers, private users, equipment manufacturers, and systems integrators through secondary market transactions with our innovative SpecEx® marketplace. The FCC recognized the challenges and opportunities of secondary markets and the role being played by Spectrum Bridge in the Innovations Notice of Inquiry. To date SBI's SpecEx spectrum exchange has transacted more than $30 M in secondary market transactions in the past 9 months and holds over $500M in spectrum listings currently available for sale on SpecEx. SBI anticipates more than $50M in spectrum transactions in 2010.

IVDS Auction History – For Reference

In 1992 the FCC auctioned 612 IVDS licenses, two 500 KHz blocks in 306 locations. There were 178 winning bidders for the 594 licenses. The total population covered was 281,422,644. The auction provided $248,743,000 in gross revenue and $213,892,375 in net proceeds to the FCC.

None of the 427 (2 x 500 KHz blocks) designated RSAs was auctioned at the time.

Currently, there are 48 active IVDS licenses in the U.S. which Spectrum Bridge values at $21,542,384.

Current Market Value of 218 – 219 MHz Spectrum

A conservative current market value of the 220 MHz spectrum is **$0.30/MHz-POP** based on sales of similar spectrum and new applications taking hold in the market. Using this metric, the current market value of the licenses proposed for auction should eventually generate **$63M**. Based on the minimum bid metrics and previous FCC auction bidding history, the proposed auction is likely to generate only **$6M** or **$0.03/MHz-PoP**. This data is based on the previous IVDS, 220 MHz and similar spectrum auctions held by the FCC. It should also be mentioned that due to the peculiar nature and diverse potential of this band, it is difficult for industry to predict future needs and applications, reinforcing the need to enable more flexible rules for spectrum availability.

Although the fair market value may not be immediately realized, the proposed methodology will discourage speculators from gaining control of spectrum and fairly enable access by industry to this valuable asset.

SpecEx Secondary Market Exchange

Spectrum Bridge has created an online marketplace for secondary market spectrum transactions through its exchange website, SpecEx. In operation since 2008, SpecEx has gathered a listing inventory of greater than $500M in spectrum bands from VHF to 39 GHz microwave in locations nationwide. The SpecEx website is linked with the FCC Universal

License System (ULS) to allow our customers to see the most detailed and up-to-date parameters and descriptions of licensed spectrum. SpecEx has additional features suited specifically to our customers such as:

- current market value of each spectrum type,
- detailed maps of license areas,
- demographics within license areas,
- Buy, Sell, Lease options for spectrum
- the latest license and purpose information for applications developers to plan their systems,
- tools to allow lease payment, MHz-Pop, and market calculations.

Since its inception, SpecEx has informed and presented opportunities to more than 5,000 unique visitors and market participants in the wireless industry including:

- current license holders
- public and private network operators
- carriers
- government agencies
- market analysts
- financial institutions
- law firms

SpecEx has become the best known marketplace for secondary market license transactions.